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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/534,898	03/24/2000	Robert G. Arsenault	PD-990194	2341

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EXAMINER
HOYE, MICHAEL W

ART UNIT	PAPER NUMBER
2614	

DATE MAILED: 02/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/534,898	ARSENAULT ET AL.	
	Examiner	Art Unit	
	Michael W. Hoye	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-10 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-10 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 24 March 2000 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Wood et al (US 2002/0054752), cited by the examiner.

As to claim 1, note the Wood et al reference, which discloses a method of transmitting, receiving, storing and displaying television program data. The claimed transmitting data including scheduled program data, program guide data, and cache program data is met by the channel guide data source 109 (Fig. 1 & p. 2, ¶[0026]), which contains the scheduled program data, the program guide data, and also the video data and meta data for a show selected for recording (p. 2, ¶[0026], p. 3, ¶[0040]). The claimed receiving the transmitted data is met by receiving broadcast updates and changes from the channel guide data source 109 (Fig. 1 & p. 2, ¶[0026]). The claimed storing the cache program data is met by a locally attached disk or alternative storage media such as RAM (p. 2, ¶[0027]) and the program is stored on video storage 105 (Fig. 1 & p. 2, ¶'s[0028]-[0029], also see storing the video data [0040]). The claimed selecting a cache television program is met by selecting a personal channel from the display which contains the cached or recorded television program (Fig. 10 & p. 4, ¶'s[0059]-

[0061], also see p. 3, ¶[0039]). The claimed retrieving a portion of the cache program data that corresponds to the selected cache television program is met by a user accessing information from the personal channel related to the selected cached or recorded program (p. 4, ¶[0064]), also see p. 3, ¶[0040]). The claimed generating a display of a television program for viewing based upon the retrieved portion of cache program data is met by Fig. 10 where the cached or recorded programs are listed as the personal channels in the personal channel guide or user interface, and information related to the highlighted program is listed in the upper portion of the display, and the program may be viewed by selecting it from the guide or user interface (p. 4, ¶'s[0059]-[0061]).

As to claim 2, the claimed storing of the cache program is based upon identifying an identifier associated with the cache program data is met by identifying the user selected or specified criteria (p. 2, ¶'s[0028]-[0029], [0037]-[0039]) or through identifying criteria or identifiers based on "fuzzy match logic" (p. 23 ¶[0053]).

As to claim 7, the claimed transmitting identification data that instructs a receiver about the identifier associated with the cache program data is met by the transmitted video data and meta data (p. 3, ¶'s[0040]-[0042]).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al, in view of Walters et al (USPN 5,710,970), cited by the examiner.

As to claim 3, the Wood et al reference is silent as to the claimed a transmission rate of the cache program data is different than a retrieval rate of the cache program data. The Walters et al reference teaches a transmission rate of the cache program data is different than a retrieval rate of the cache program data as described in col. 3, lines 37-63, where the transmission rate is much faster or higher than the subscriber access time through the use of a high speed compressed digital video transmission rate. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the method of transmitting, receiving, storing and displaying television program data of Wood et al with the high speed compressed digital video transmission rate as taught by Walters et al. One of ordinary skill in the art would have been led to make such a modification since transmitting programs in a compressed digital format would allow the user to view a program much faster than if the program was transmitted in real time, in addition, the subscriber would be able to accumulate a plurality of programs in a relatively short amount of time.

As to claim 4, as noted above, the claimed transmission rate of the cache program data is higher than the retrieval rate of the cache program data is met by the Walters et al reference.

As to claim 5, the Walters et al reference further teaches the claimed transmission rate of the cache program data is approximately twice the retrieval rate of the cache program data as described in col. 3, lines 61-63, where a different transmission rate may be used which could be approximately twice as fast as the subscriber access time through the use of a high speed compressed digital video transmission rate. Therefore, it would have been obvious to one of

ordinary skill in the art at the time the invention was made to further combine the method of transmitting, receiving, storing and displaying television program data of Wood et al with the high speed compressed digital video transmission rate as taught by Walters et al where the compressed digital video transmission rate could be approximately twice the retrieval rate of the cache program data or subscriber access time. One of ordinary skill in the art would have been led to make such a modification since transmitting programs in a compressed digital format would allow the user to view a program much faster than if the program was transmitted in real time, in addition, the subscriber would be able to accumulate a plurality of programs in a relatively short amount of time. Moreover, Walters et al teaches various compressed digital video transmission rates, so having a transmission rate at approximately twice the retrieval rate would have been an obvious design choice for the transmission rate since very high compression rates may be difficult to achieve and using an approximate rate of 2 to 1 for the ratio of transmission to retrieval is commonly used for compressed transfer modes.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al, in view of Walters et al, as applied to claim 3 above, and in further view of Gudesen (USPN 5,761,607), cited by the examiner.

As to claim 6, the Wood et al reference is silent as to the claimed transmission rate of the cache program data is lower than a retrieval rate of the cache program data. The Walters et al reference teaches a transmission rate of the cache program data is different than a retrieval rate of the cache program data as described in col. 3, lines 37-63, where the transmission rate is much faster than the subscriber access time through the use of a high speed compressed digital video transmission rate, however, Walters et al does not explicitly teach a lower transmission rate than

the retrieval rate of the cache program data. The Gudesen reference teaches a transmission rate of the cache program data is lower than a retrieval rate of the cache program data in col. 6, lines 27-41, where transmission or updating can be performed by transferring data via phone lines with low capacity or by using other transmission means, such as, satellite lines, cable networks, radio lines, etc. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the method of transmitting, receiving, storing and displaying television program data of Wood et al and Walters et al with the low capacity method of Gudesen. One of ordinary skill in the art would have been led to make such a modification since transmitting programs in a low capacity format that is slower or lower than the retrieval rate of the cache program data would allow the local cache or mass storage unit to acquire the cache program data over a longer period of time which would free up a significant amount of bandwidth in the transmission medium.

6. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al, in view of Gudesen.

As to claim 8, the claimed maintaining a record of selection representing selected cache television programs is met by the Wood et al reference where a record of the viewing history or habits of the programs that have been recorded, stored, or cached by the user is maintained (pgs. 3-4, ¶[0053]). The Wood et al reference is silent as to assessing a fee based upon the record of selection. The Gudesen reference teaches assessing a fee based upon the record of selection (col. 6, lines 5-15). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the method of maintaining a record of selection

representing selected cache television programs as taught by the Wood et al reference with the method of assessing a fee based upon the record of selection as taught by the Gudesen reference. One of ordinary skill in the art would have been led to make such a modification since it is well known in the art of video distribution systems with pay-per-view or purchasing methods to maintain a record of the program viewed and/or recorded and assess a fee based on the selection made.

As to claim 9, the Wood et al reference teaches the record of selection is maintained at the receiver as met by the record of the viewing history or habits of the programs that have been recorded by the user are inherently maintained at the receiver (pgs. 3-4, ¶[0053]).

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al, in view of Gudesen, as applied to claims 8-9 above, and in further view of Tsuria et al (USPN 6,424,947), cited by the examiner.

As to claim 10, the Wood et al and Gudesen references are silent as to the record of selection is maintained in a memory of an access card at the receiver. The Tsuria et al reference teaches the use of an access card or "smart card" that may collect and store specific information, such as information related to viewing or purchasing habits of the subscriber (see col. 8, lines 49-53). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the methods taught be by the Wood et al and Gudesen references with the method of maintaining the record of selection in a memory of an access card at the receiver as taught by the Tsuria et al reference. One of ordinary skill in the art would have been led to make such a modification since it is well known in the art of video distribution systems

with pay-per-view or purchasing methods to use access cards or "smart cards" at the receiver to maintain a record of the program viewed and/or recorded and assess a fee based on the selection made.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Levinson, Frank H. (USPN 5,404,505) – Discloses a data transmission rate that is faster than the retrieval rate of the cache program data.

Schulhof et al (USPN 5,841,979A) - Discloses a data transmission rate that is faster than the retrieval rate of the cache program data.

Ueno et al (USPN 6,438,596) – Discloses a video on demand system with a local server storage system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoye whose telephone number is (703) 305-6954. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at (703) 305-4795.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Michael W. Hoye
February 10, 2003

JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600